

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15959 of Young Cha Min, as amended, pursuant to 11 DCMR 3108.1, for a special exception (Section 2003) to continue a retail grocery/delicatessen use (no seating) in an R-4 District at premises 301 P Street, N.W. (Square 521, Lot 1).

HEARING DATE: June 15, 1994

DECISION DATE: June 15, 1994 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 3-0 (William B. Johnson, Laura M. Richards and Angel F. Clarens to grant; Craig Ellis and George Evans not present, not voting).

FINAL DATE OF ORDER: June 29, 1994

MODIFICATION ORDER

The Board granted the application by its order, dated June 29, 1994, subject to seven conditions. Condition No. 6 of that order reads as follows:

6. The applicant shall have the telephones removed from the exterior of the property.

On July 26, 1994, counsel for the applicant submitted a timely motion to modify Condition No. 6 of the Board's order. The basis for the requested modification is that the language of the existing condition does not accurately reflect the Board's decision. Counsel cited a portion of the public hearing transcript of June 15, 1994 which reads as follows:

"So then we shall then leave the condition as it is stated that you should make every effort to have the existing phones removed from the outside of the property ..."

Counsel for the applicant noted that, based on the language contained in Condition No. 6, the Zoning Review Branch has refused to allow the issuance of the certificate of occupancy for the premises. In addition, a citation was issued to the premises and a civil infraction hearing has been scheduled. There was no opposition to the motion for modification.

At the public hearing of September 7, 1994, only two of the three members who participated in the original decision were present. Board members who did not participate in the original decision were provided copies of the transcript and record in the subject case for review prior to consideration of the motion.

Upon consideration of the motion, the record in the case, and its final order, the Board concludes that, although it made no error in its decision on the application, the language of Condition No. 6 does not adequately express the Board's concerns and should, therefore, be modified for the purpose of clarification. The Board further concludes that the modification of Condition No. 6 has no affect on the relief originally granted by the Board and does not alter the material facts relied upon by the Board in reaching its decision. It is therefore **ORDERED** that the motion for **MODIFICATION** is **APPROVED**, and Condition No. 6 is modified to read as follows:

"6. The applicant shall make every effort to have the existing telephones in the public space removed. At the time of filing for Board approval for continuation of the use, the applicant shall supply the Board with evidence that the telephones have been removed or documentation of its efforts to do so and the reasons why such efforts were not successful."

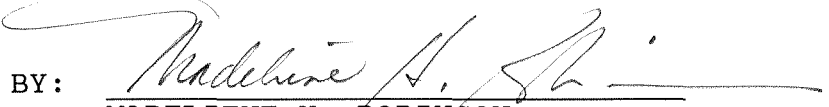
In all other respects, the order of the Board dated June 29, 1994, shall remain in full force and effect.

DECISION DATE: September 7, 1994

VOTE: 3-0 (Angel F. Clarens, Susan M. Hinton and Laura M. Richards to approve; William B. Johnson not present, not voting; Craig Ellis not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

SEP 26 1994

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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BZA APPLICATION NO. 15959

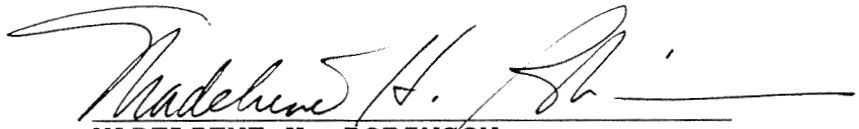
As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 26 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. ROBINSON
Director

DATE: SEP 26 1994